

Appl. No. 09/786,836
Atty. Docket No. 7275
Amdt. dated 05/14/2003
Reply to Office Action of 02/04/03

REMARKS/ARGUMENTS

Claim 2 has been cancelled herewith as being redundant in view of the amendment to Claim 1. Claim 5 was previously cancelled. Claims 1, 3, 4 and 6-10 are now in the case.

[All page and line citations herein are to the PCT document WO 00/17304, filed as PCT/US 99/20182.] Claim 1 has been amended to delete the "mixing zone" terminology. Claim 1 has also been amended to recite that the mixer of step (b) has one or more chopper blades operating at a specified tip speed. Basis is at page 12, first full paragraph. Claim 1 also requires the binder to be dispensed directly at the blades. Basis is also at page 12, first full paragraph. Claim 3 has been amended to depend from Claim 1. It is submitted that these amendments are fully supported and entry is requested.

REJECTION UNDER 35 USC 112

It is submitted that the removal of the "mixing zone" language has obviated the rejection under §112. Withdrawal of the rejection is requested.

REJECTIONS UNDER 35 USC 103

Claims 1-4 and 6-10 stand rejected over U.S. 5,486,317 (herein "'317"), for reasons of record.

Claims 1-4 and 7-10 stand rejected over WO 97/32954 (herein "WO"), for reasons of record.

Claims 1, 3-4 and 6-10 stand rejected over U.S. 6,274,544 (herein "544"), for reasons of record.

Applicants respectfully traverse the foregoing rejections, to the extent they may apply to the claims as amended herewith.

At the outset, it is noted that the process of the present invention is conducted in two steps, the first comprising the use of a high speed mixer and the second comprising the use of a moderate speed mixer. While the following discussion focuses mainly on the parameters of the second step, the patentability of the invention versus the cited '317, "WO" and '544 documents must be judged based on the combined first and second steps.

Moreover, the discussion of '317 and "WO" presented in the Amendment filed 11/7/02 continues to apply, but will not be repeated herein for the sake of brevity.

The amended claims directed to the inventive process herein specify not only the average equivalent diameter of the discrete mass units of the binder, but, importantly, how that is achieved,

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i.e., by directing the binder directly at the chopper(s) in the moderate speed mixer. [This unique aspect of the invention is discussed thoroughly at pages 12-13 of the specification.]

Turning to '544, one finds a disclosure of low shear granulation processes (Col. 1, l. 60; Col. 2, l. 58; Col. 2, l. 65; Col. 3, l. 55 and 60) which optionally employ high-shear pre-mixing operations (Col. 5, l. 27 and 57).

At Column 2 (beginning l. 41) and Column 3 (beginning l. 3) various size parameters are discussed. As an aside, it is noted that it is not entirely clear whether the size of the binder particles is being discussed, since the passage seems to refer to solids as well as droplets.

In any event, '544 does not teach or suggest directing the binder at the chopper(s) in order to achieve the desired binder diameter. Indeed, a fair reading of '544 would lead one to conclude from the EXAMPLES and the data reported in TABLE I regarding "droplet size" that the patentees rely on spray nozzles and atomization pressure to achieve their intended result.

In view of the fact that '544 neither teaches nor suggests use of choppers in the present manner to achieve the desired binder mass unit, it is submitted that the present invention is not obvious over '544 in the sense of §103. Reconsideration and withdrawal of the rejections on this basis are requested.

The self-same arguments apply to the rejections over "WO" and '317, alone or in combination. In neither instance is it suggested that direction of the binder at the chopper(s) will provide binder particles having the herein-specified parameters. Reconsideration and withdrawal of the rejections over "WO" and '317 are requested.

It is respectfully submitted that the case law cited in support of the rejections is not controlling, given the amendments to the claims presented herein. Whether or not optimization [here, with respect to size range], by itself, is ever a proper grounds for rejection under the current version of §103, the means for achieving such optimization in the present claims is not taught or suggested by the cited patent documents.

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 USC 112 and 103. Early and favorable action in the case is respectfully requested.

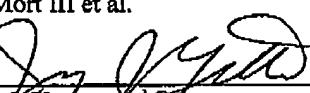
Applicants have made an earnest effort to place their application in proper form and to

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GROUP 17

Respectfully submitted,
Paul R. Mort III et al.

By


Jerry J. Yester
Attorney for Applicant(s)
Registration No. 26,598
(513) 627-1907

Customer No. 27752

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